

MINUTES OF MEETING
BOARD OF ZONING AND BUILDING APPEALS
FEBRUARY 10, 2022

Members Present: Farrell, Brandt, Wright, Christ, Pempus

Presence Noted: Michael O'Shea, Law Director
Raymond Reich, Building Commissioner
Kate Straub, Planning and Zoning Coordinator

Councilmembers Present: James Moran, City Council President
Jeanne Gallagher, Ward 3 Council Member

Mr. Pempus opened the February 10, 2022 meeting of the Board of Zoning and Building Appeals at 7:00 p.m. He welcomed Mayor Bobst to the meeting and offered her the podium. Mayor Bobst said that before she gets to happier news about acknowledging a member's willingness to serve, she would like to let the Board know that Mary Ventimiglia, who previously served as Assistant to the Boards and Commissions and eventually became the Executive Assistant to the Mayor, passed away a couple of weeks ago. She would often share many fond memories of her time with this Board. She wanted to take a moment to acknowledge all of the good work that Mary had done alongside this Board. She will especially miss Mary's laugh which could uplift the entire City Hall on many days.

Mayor Bobst said that she is here to wish Todd Brandt a lot of success in his new role, which means that he will be leaving this Board as a member. He has been promoted to Director of Architecture at Osborn Engineering and she congratulated him on his accomplishments in his professional endeavors. She wants to take a moment to thank Todd for his willingness to serve the community on the BZA. She read the Certificate of Special Recognition aloud and handed it to Mr. Brandt. Mr. Brandt thanked Mayor Bobst.

Mr. Pempus thanked Mayor Bobst and went on to explain the meeting protocol. He said that all of the board members have had the opportunity to view the properties, and review the Variance Application and other materials that were submitted.

1. Approval of the Minutes of the January 20, 2022 Board of Zoning and Building Appeals meeting. Mr. Christ moved to approve the minutes as noted. Mr. Wright seconded.

4 Ayes – 0 Nays – 1 Abstain (Brandt)
Passed

2. LAURA JOHNSTON & CRAIG RIMLINGER – 2111 Northview Rd. - PUBLIC HEARING - Variance to construct an addition with a height of 28'-5.5" vs. 25' maximum height permitted (Section 1153.09). Mr. Aaron Phillips, General Contractor, came forward with Laura Johnston, the homeowner.

Board Secretary Christ read the meeting notice, which also names the parties who received it. The parties were sworn in by Chairman Pempus. The project is a two-story addition on an existing single story addition at the rear of the house. The extra height will provide head

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room and the existing house is the same height as the addition they are asking for. The space will create a master suite on the third floor and a bathroom that has adequate head height.

Mr. Brandt suggested that the applicant could go with a regular truss and save some money that way and they would have the same inside volume of space. Mr. Christ said he suggests they work with the Building Department to make sure the truss is properly designed and detailed. Mr. Farrell said that he does not have any problem with this request and Mr. Pempus and Mr. Wright agreed.

Mr. Christ moved to close the public hearing. Mr. Wright seconded.

5 Ayes – 0 Nays
Passed

Mr. Christ reviewed the practical difficulties factors aloud. The proposal is to match the height of the existing roof, the variance is not substantial and is the minimum necessary to accomplish their goals. This will not alter the essential character of the neighborhood. This would not adversely affect the delivery of government services and special circumstances do not exist as a result of actions of the owner. He does not believe that the homeowner's predicament can be obviated through some other method without a variance. The spirit and intent of the zoning requirement will be observed and substantial justice will be done with the granting of the variance. No special privilege will be conferred upon the applicant that have been denied to other lands and a literal interpretation of the provisions of this Code will deprive the applicant of rights commonly enjoyed by others. The other Board members agreed with Mr. Christ's assessment of the practical difficulties factors.

Mr. Christ moved to grant a variance to Laura Johnston and Craig Rimlinger, 2111 Northview Rd., to construct an addition with a height of 28' – 5.5" vs. 25' maximum height permitted. The applicants have indicated the practical difficulties and this is matching the existing house's ridge line and this is a reasonable solution. Mr. Wright seconded.

5 Ayes – 0 Nays
GRANTED

3. KATHLEEN O'LEARY – 19901 Roslyn Dr. – PUBLIC HEARING – Variance to construct a detached garage with a height of 16'-8 3/4" vs. 15' maximum height permitted for detached garages (Section 1153.09(b)) and a Variance to construct an addition with a 4' – 3" side yard setback vs. 8' side yard setback required (Section 1153.07(f)(1)A.) Mr. Mark Reinhold, Architect, came forward with Kate O'Leary, homeowner to explain the variance requests.

Board Secretary Christ read the meeting notice, which also names the parties who received it. The parties were sworn in by Chairman Pempus. Mr. Reinhold began by explaining that both

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of the variances stem from houses being built in the early 1920s or 1930s with a lack of garage space and organization for the family such as entry storage, etc. They tried very hard to not get any closer to the property line than the front left corner of the house and the size of the mudroom was determined based on that. The garage height is determined by a bracing distance, the garage door, a pier, a man door that they want to put on that side, and then another bracing distance. What they are seeing is the higher pitch in order to accommodate the active side of the garage. A pull down staircase will access the upper floor and it will only be 3.5' tall up there. There will only be a light up there and no plumbing or HVAC.

Mr. Wright said that he is normally not in favor of garage heights over 16' but in this case, the height is dwarfed by the existing residence and the pitch of the garage matches the existing house. Discussion was had relating to the possibility of losing the nearby tree and the applicant was aware of the potential of losing it. Mr. Farrell said he agrees with Mr. Wright regarding the height and the fact that this is an example of the desire to match the pitch of the existing roof being important because it is so close to the house and not in the backyard where they really don't relate. In this case, the house and garage relate to one another. He does not have a problem with the extra height it requires.

Mr. Brandt said that he is probably the lone dissenter, knowing that the Boards have taken a position of 16' as the max and further explained his reasoning. If they built the garage with an 11.5 pitch versus a 12 pitch, then nobody would notice the difference and it wouldn't require a variance. Mr. Christ said that he was not at the meeting discussing height of garages and last month the message from the Board was not to exceed 16'. Mr. Pempus said that a variance request last month resulted in the Board requiring the applicant to come down to 16'.

The Board agreed that the setback for the addition is existing and is not an issue.

Mr. Christ moved to close the public hearing. Mr. Wright seconded.

5 Ayes – 0 Nays

Passed

Mr. Christ reviewed the practical difficulties questions aloud. The garage will match the existing pitch and the setback is at or less than the existing setback. The variances are not substantial and are the minimum for both the height and the setback. The essential character will not be substantially altered as a result of both variances. The variances will not adversely affect the delivery of government services. There are no actions of the owner that resulted in special conditions or circumstances. There may be some other solutions to the height, but the setback variance is following the existing setback. The spirit and intent behind the zoning requirements would be observed and substantial justice would be done for both variances. The granting of the variances will not confer any special privilege upon the applicant. A literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties for both variances. The other Board members agreed.

Mr. Christ moved to grant a variance to Kathleen O'Leary, 19901 Roslyn Dr., to construct a detached garage with a height of 16' – 8 ¾" vs 15' maximum height permitted for detached garages. The applicant indicated the practical difficulties and the area above will be non-habitable and will have electricity only and no plumbing. This is a reasonable solution. Mr. Farrell seconded.

3 Ayes – 2 Nays (Brandt, Pempus)
GRANTED

Mr. Christ moved to grant a variance to Kathleen O'Leary, 19901 Roslyn Dr., to construct an addition with a 4' – 3" side yard setback vs. 8' side yard setback required. The applicant has indicated the practical difficulties. This proposal is at or less than the existing setback and is a reasonable solution. Mr. Farrell seconded.

5 Ayes – 0 Nays
GRANTED

5. BRADLEY AND CAROL RICHARDSON – 19580 Beachcliff Blvd. – Variance to construct a garage addition New Single Family Residence with a 24.25' front setback (on Buckingham Rd.) vs. 30' front setback required (Section 1153.07(a)). Mr. Steve Schill, Architect, came forward to present the variance request.

Board Secretary Christ read the meeting notice, which also names the parties who received it. The representative was sworn in by Chairman Pempus. Mr. Schill said that the owners of the property are not able to attend the meeting. He explained that the recently sold their house on Avalon Dr. and desire to stay in Rocky River. They purchased this property in order to construct an "age in place" home with a first floor master suite. Regarding the garage, because they are getting older, the property owners want to be sure they can open a car door, store garbage cans in the garage, along with improve the architecture of the home, which requires this intrusion into the setback on Buckingham. This home will be more of a 1.5-story house as opposed to a 2-story house, which will bring the mass down. There will be two small bedrooms on the second floor for their grandchildren when they visit, but this is primarily a single story house. The variance for the excess room in the garage is requested for the reasons stated above. Without the addition, the façade of the house would be very linear and most likely the garbage and recycling cans will be in the side driveway like some houses in the area, which is what they are trying to avoid.

It was clarified that the project before them is a new single-family residence and the portion that requires a variance is the front part of the garage. Discussion was had about the location of the fireplace in relation to the property line and whether it will be wood burning. Building Commissioner Reich said that they will address the fireplace issue. Mr. Farrell said that they could increase the setback if they didn't have a stair in the garage. Mr. Schill said that he designed the home with a stepping of the garage so it lessens the impact of the variance. Regarding the idea of removing some of the square footage of the outdoor porch area to

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relieve the variance request, Mr. Schill said that they have a lot of family visit with grandchildren and this outdoor space is tucked behind the house to give them privacy on the corner lot.

Mr. Christ said that this is an entirely new house and 2.5' of it is for trash can storage in the garage. He is not sure if this rises to the question of whether there is some other solution. Also, he said that Mr. Schill acknowledged at the beginning of the meeting that the lot isn't big enough to build what they want.

Mr. Wright said that the impact could be lessened by pushing the bump-out in the garage back by 2' and bring it in line with the other wall in the garage. But he understands that they want to include some varying of the depth along that elevation. Mr. Brandt said that this could be pulled back with some modifications of the outdoor lounge area and some mudroom space, but he is not troubled by the 5.75' difference in setback.

Mr. Farrell said that when he weighed in before he may have started the conversation about redesigning the garage but in looking at it, it is good that the garage is turned sideways and it is a nice looking home. He does not think this affects the neighbor to the north because there is still a lot of space there. He does not object to the setback.

Mr. Wright moved to close the public hearing. Mr. Farrell seconded.

5 Ayes – 0 Nays
Passed

Mr. Christ said that he thinks there are things that can be done to lessen the variance. He understands that they are trying to create a more pleasant front elevation. The small protrusion in the garage is only one story tall and it doesn't have much of a roof over it. He asked if there was something they could tweak to get a couple of feet out of it without losing the outdoor space and the garbage can space. Mr. Schill said that this home was harder to design than some of the much larger homes he has designed. He thinks the only way to adjust anything would be to get rid of the porch on the corner of the two streets. However, they lend a nice streetscape to that corner. Mr. Christ pointed out that they are building up to all of the setbacks and the portion that is only one story is the part that encroaches into the setback. Setbacks of the houses further north on Buckingham Rd. were discussed because they keep getting closer and closer.

Law Director O'Shea said that the Board should make a motion to amend the notice to reflect what the actual request is and what went out with the notices because this is a typo. Mr. Pempus moved to amend the public hearing variance request that this is a proposed new single family house and not simply a garage addition. Mr. Wright seconded.

5 Ayes – 0 Nays
Passed

Mr. Christ reviewed the practical difficulties questions aloud. Special conditions peculiar to this land or structure include the fact that this is a corner lot with constraining front setbacks on two elevations; whether the property in question will yield a reasonable return does not apply here. The applicant indicated that the variance is not substantial and is the minimum necessary to accomplish the homeowners' goal. The essential character will not be affected because this is only a one-story portion that is requiring the variance. The variance would not adversely affect delivery of government services. He does not believe that the property owner purchased the property with knowledge of the zoning restrictions. He does not believe that any special circumstances exist as a result of actions of the owner. Whether the property owner's predicament feasibly can be obviated through some method other than a variance, Mr. Christ said that is substantially what this Board is evaluating. The spirit and intent behind the zoning requirement would be observed and substantial justice will be done. The granting of the variance will not confer on the applicant any special privileges and a literal interpretation of the provision of the Code would deprive the applicant of rights commonly enjoyed by others. The Board agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Bradley and Carol Richardson, 19580 Beachcliff Blvd., to construct a new house with a garage with a 24.25' front setback on Buckingham Rd. vs. 30' front setback required. The applicant has indicated the practical difficulties. This is a minimal request, the garage is not front facing and the portion in question is only a one story portion with a roof. Mr. Wright seconded.

5 Ayes – 1 Nay (Pempus)
GRANTED

The meeting adjourned at 7:50 p.m.

Eric Pempus, Chairman

Patrick Farrell, Vice Chairman

Date: _____